

Message Text

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FM AMEMBASSY QUITO
TO SECSTATE WASHDC IMMEDIATE 2414
INFO AMCONSUL GUAYAQUIL

C O N F I D E N T I A L QUITO 8445

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FOR: DEP. ASST. SEC. GRUNWALD

E.O. 11652: GDS
TAGS: BDIS, ENRG, EC
SUBJECT: ADA CASE

REFS: (A) QUITO 8422; (B) QUITO 8423

1. SUMMARY: I AM CONVINCED THAT THE SUGGESTION OF NEGATIVE VOTES BY THE USG ON ECUADOR'S IBRD LOAN APPLICATIONS AND/OR CONDITIONING OF ECUADOR'S REQUEST FOR A CONSULTIVE GROUP ON THE SETTLEMENT OF CURRENT INVESTMENT CASES (ADA, GULF) WOULD IMMEDIATELY SOUR U.S.-ECUADOREAN RELATIONS AND CONSTRAIN OUR ABILITY TO TAKE A POSITIVE ROLE IN THE SETTLEMENT OF THESE PROBLEMS. I REQUEST THAT THE DEPARTMENT ASK TREASURY TO DESIST FROM THIS COURSE. SUCH ACTIONS WOULD BE VIEWED IN ECUADOR AS SIMPLY ANOTHER EXAMPLE OF A RETURN BY THE U.S. TO A "BIG STICK" POLICY AND WHAT ECUADOREANS REGARD AS A CAPRICIOUS DISREGARD FOR ECUADOR'S DEVELOPMENT AND PROGRESS. IT WOULD ALSO MAKE IT POLITICALLY IMPOSSIBLE FOR THE GOE TO PARTICIPATE IN AN EVENTUAL ADA SETTLEMENT. SINCE A DIRECT SETTLEMENT BETWEEN NORTHWEST AND ADA NOW SEEMS UNLIKELY, WE RECOMMEND THAT THE USG ASSUME AN ACTIVE, CONSTRUCTIVE ROLE

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IN REACHING A SETTLEMENT OF THE ADA CASE. SPECIFICALLY, I

SUGGEST THAT THE DEPARTMENT AND TREASURY APPROACH THE IBRD, IBD, EXIM AND OPIC TO DETERMINE IF ONE OR MORE OF THESE AGENCIES WOULD BE WILLING TO OPEN DISCUSSIONS ONCE AGAIN WITH NORTHWEST RE FINANCING OF ITS DEVELOPMENT IN THE GULF, WITH A VIEW TO HAVING THE PROJECT PROVIDE FOR EARMARKING OF A CERTAIN PERCENTAGE OF THE REVENUES TO BE PAID TO ADA AS COMPENSATION. SUCH A FORMULA WOULD BENEFIT ALL PARTIES INVOLVED: IT WOULD PERMIT THE DEVELOPMENT OF THE GAS RESOURCES IN THE GULF TO GO FORWARD, WOULD PROVIDE COMPENSATION FOR ADA, WOULD GET THE GOE OFF THE HOOK IN RESPECT TO THE DOMESTIC REPERCUSSIONS OF AN ADA SETTLEMENT, AND PERMIT THE USG TO PLAY A CONSTRUCTIVE ROLE IN THESE CASES AS WELL AS IN THE ADVANCEMENT OF OTHER U.S. INTERESTS HERE. END SUMMARY.

2. THE EMBASSY UNDERSTANDS FROM VARIOUS SOURCES THAT TREASURY NOW WISHES TO BRING PRESSURE TO BEAR ON THE GOE FOR A SETTLEMENT OF THE ADA CASE BY INSTRUCTING THE U.S. DELEGATE TO THE IBRD (A) TO VOTE AGAINST ECUADOR'S LOAN APPLICATIONS, AND (B) TO TAKE A NEGATIVE ATTITUDE TOWARD ECUADOR'S REQUEST FOR FORMATION OF A MUCH-NEEDED WORLD BANK CONSULTATIVE GROUP.

3. THERE IS NO POSSIBILITY THAT SUCH HARD-LINE ACTIONS WOULD ENCOURAGE THE GOE TO COMPENSATE ADA. THE EMBASSY IS CONVINCED THAT THE GOE WILL NOT COMPENSATE ADA DIRECTLY. THE RECENT ECUADOREAN COURT DECISION CLEARING MOST OF THE ADA DEFENDANTS REFLECTED PUBLIC INDIGNATION OVER THE SUSPENSION OF DUE PROCESS IN THE ADA TRIALS, AND DID NOT ALTER ANY OF THE WIDESPREAD CONVICTION THAT ADA HAD WON ITS CONCESSION BY UNSCRUPULOUS MEANS. ADA'S REPUTATION IS SO SORDID HERE THAT NO ECUADOREAN GOVERNMENT--MUCH LESS ONE THAT HAS TERMED ITSELF TRANSITIONAL--WILL COMPENSATE ADA DIRECTLY.

4. A U.S. VOTE AGAINST ECUADOR'S IBRD LOANS WOULD HAVE ONE CERTAIN AND IMMEDIATE EFFECT ON OUR INTERESTS HERE: IT WOULD SOUR U.S.-ECUADOREAN RELATIONS AND THUS CURTAIL THE EMBASSY'S ABILITY TO POSITIVELY AFFECT THE OUTCOME OF THE GULF-GOE NEGOTIATIONS. GULF'S INVESTMENT IS, AFTER ALL, SOME FIVE TIMES GREATER THAN ADA'S, AND WE HAVE ASSUMED A SPECIFIC OBLIGATION TO ASSIST GULF IN THE NEGOTIATIONS. I REQUEST THAT TREASURY SUSPEND ANY SUCH ACTIONS AND INSTEAD JOIN IN THE CONFIDENTIAL

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POSITIVE APPROACH TO THE SOLUTION OF THE ADA CASE WHICH IS OUTLINED BELOW.

5. IN CONSIDERING POSSIBLE SOLUTIONS TO THE ADA CASE, WE BELIEVED AT ONE POINT THAT A DIRECT SETTLEMENT BETWEEN NORTHWEST AND ADA MIGHT BE POSSIBLE. IT HAS BECOME INCREASINGLY APPARENT THAT THIS IS NOT GOING TO BE FEASIBLE:

NORTHWEST SIMPLY DOES NOT HAVE THE WHEREWITHAL TO UNDERTAKE THIS PROJECT, MUCH LESS TO AGREE TO CUT ADA IN, WITHOUT SOME CONSIDERABLE EXTERNAL FINANCING. INDEED, IF NORTHWEST DOES NOT START REAL WORK IN THE GULF SOON, IT IS IN DANGER OF VIOLATING ITS CONTRACT AND THUS HAVING ITS CONCESSION CANCELLED.

6. THE EMBASSY UNDERSTANDS THAT VARGAS' RECOMMENDATION TO THE SUPREME COUNCIL FOR A "SOLUTION" TO THE ADA CASE INVOLVED HAVING NORTHWEST AND CEPE BRING IN OKC AS A PARTNER, WHICH APPARENTLY WAS ALSO SUPPOSED TO FACILITATE AN AGREEMENT BETWEEN NORTHWEST AND ADA. THE EMBASSY DOES NOT REGARD THIS SCHEME AS PROMISING. OKC' INVOLVEMENT, WE FEAR, WOULD ONLY INVOLVE A THIRD INEXPERIENCED AND INADEQUATELY FINANCED COMPANY IN THE GULF OF GUAYAQUIL DEVELOPMENT. FURTHER, OKC IS OR WAS ALSO A MEMBER OF THE ADA CONSORTIUM, AND HAS A PENDING LAWSUIT AGAINST ADA.

7. THE EMBASSY IS AWARE THAT NORTHWEST HAS APPROACHED THE IBRD, EXIM AND OPIC TO DISCUSS POSSIBLE FINANCING OF THE GULF OF GUAYAQUIL DEVELOPMENT. NONE OF THESE DISCUSSIONS GOT PAST THE OPENING STAGES, SINCE NORTHWEST PROPOSED AN EQUITY POSITION OF TEN PERCENT AND HAD PREPARED NO LONG-RANGE MARKETING PLANS, AND SINCE ADA'S PRIOR CLAIM TO THE GULF OF GUAYAQUIL CAST DOUBT ON NORTHWEST'S ABILITY TO MAKE A GO OF THAT CONCESSION.

8. I AM ASSUMING THAT IT IS IN THE USG INTEREST (A) TO ACHIEVE A SETTLEMENT OF THE GULF AND ADA CASES ACCEPTABLE TO ALL PARTIES AND (B) BE HELPFUL TO ECUADOR'S EFFORTS TO UTILIZE IN AN EFFECTIVE FASHION ITS PETROLEUM RESOURCES AND ITS FOREIGN BORROWING CAPACITY IN ORDER TO MAKE PROGRESS ON ITS MASSIVE DEVELOPMENT PROBLEMS (SEE REFTELS. I THEREFORE REQUEST THAT THE DEPARTMENT CONTACT THE ABOVE-MENTIONED LENDING AGENCIES (AND THE IDB) TO ASCERTAIN THEIR INTEREST

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IN FINANCING THE PROJECT ON THE CONDITION THAT SOME REVENUES FROM THE PROJECT BE PAID DIRECTLY TO ADA AS COMPENSATION. SUCH PROJECT POSSIBILITIES INCLUDE A FERTILIZER PLANT AND A GAS LIQUIFICATION PLANT AND RELATED DELIVERY SHIPS, ETC., WHICH WILL PROVIDE SIGNIFICANT FOREIGN EXCHANGE EARNINGS. SUCH A SOLUTION COULD TAKE DIVERSE FORMS DEPENDING ON THE INSTITUTIONS, SUCH AS FINANCING THROUGH CFF FROM EXIM, A COMPLEMENTARY FINANCING PROJECT FROM THE IDB (WHICH THE IDB IS PREPARING ON OTHER CEPE PROJECTS) OR FROM THE IBRD, AS LEADER OF A CONSULTATIVE GROUP, OR ASSISTANCE FROM OPIC IN OBTAINING OTHER EQUITY PARTNERS IN THE VENTURE, OR SOME COMBINATION OF THESE. I FEEL THAT INVOLVEMENT OF AN INTERNATIONAL LENDING AGENCY WOULD ALLEVIATE NORTHWEST'S FINANCING PROBLEMS, INVOLVE THE GOE (WHICH WE FEEL WOULD EAGERLY PARTICIPATE IN SUCH A SETTLEMENT), PROMOTE ECUADOR'S

ECONOMIC DEVELOPMENT, AND COMPENSATE ADA, ALBEIT OVER AN
EXTENDED PERIOD.

9. EMBASSY IN FACT HAS ALREADY DISCUSSED THIS IDEA WITH AN
IBRD REPRESENTATIVE WHO INDICATED THAT THE WORLD BANK
WOULD BE INTERESTED IN DISCUSSING SUCH A PROPOSAL WITH
NORTHWEST.
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